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Attorneys for Plaintiff
SHELLY SABAN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SHELLY SABAN,)	CIVIL NO.:_____
)	
Plaintiff,)	
)	COMPLAINT; DEMAND FOR
v.)	JURY TRIAL; SUMMONS
)	
AZUL HAWAII RESORTS - KOLOA)	
LLC dba KOLOA LANDING AT)	
POIPU BEACH WYNDHAM)	
GRAND RESORT; POIPU BEACH)	
VILLAS, LLC; ASSOCIATION)	
OF KOLOA LANDING AT POIPU)	
BEACH; and LAYTON)	
CONSTRUCTION CO., INC. dba)	
LAYTON CONSTRUCTION)	
COMPANY;)	
)	
Defendants.)	
_____)	

COMPLAINT

Comes now Plaintiff SHELLY SABAN, by and through her attorneys, Rosenberg & McKay, and for a Complaint against the above-named Defendants, alleges and avers as follows:

1. Plaintiff SHELLY SABAN is and at all times relevant was a resident of the City of Vancouver, Clark County, State of Washington.

2. Defendant AZUL HAWAII RESORTS - KOLOA LLC dba KOLOA LANDING AT POIPU BEACH WYNDHAM GRAND RESORT (hereinafter “Defendant AZUL”) is, and at all times relevant, was a Hawaii limited liability corporation, operating and existing under the laws of the State of Hawaii with its principal place of business located within the City of Koloa, County of Kauai, State of Hawaii. At all relevant times, Defendant AZUL owned, developed, operated, managed, and/or maintained the Wyndham Grand Resort in the County of Kauai, State of Hawaii.

3. Defendant Poipu Beach Villas, LLC (hereinafter “Defendant POIPU BEACH”) is, and at all times relevant was a Hawaii limited liability corporation, operating and existing under the laws of the State of Hawaii with its principal place of business located within the City of Koloa, County of Kauai, State of Hawaii. At all relevant times, Defendant POIPU BEACH operated, managed, and/or maintained the Wyndham Grand Resort in the County of Kauai, State of Hawaii.

4. Defendant ASSOCIATION OF KOLOA LANDING AT POIPU BEACH (hereinafter “Defendant ASSOCIATION”) is, and at all times relevant was a Hawaii non-profit corporation operating and existing under the laws of the State of Hawaii with its principal place of business located within the City of Koloa, County of Kauai, State of Hawaii. At all relevant times, Defendant ASSOCIATION operated, managed, and/or maintained the Wyndham Grand Resort in the County of Kauai, State of Hawaii.

5. Defendant LAYTON CONSTRUCTION CO., INC. dba LAYTON CONSTRUCTION COMPANY (hereinafter “Defendant LAYTON”) is, and at all times relevant was a Utah corporation licensed to do business in the State of Hawaii. Defendant Layton Construction Co., Inc. is a general contractor and performed construction and construction management tasks on the premises of the Wyndham Grand Resort in the County of Kauai, State of Hawaii.

6. Jurisdiction is asserted pursuant to Title 28 U.S.C. §1332(a) and (c), for civil actions where there is complete diversity of citizenship between the party litigants and damages are in excess of \$75,000.

7. Venue is asserted pursuant to Title 28 USC §1391(b)(2).

8. On August 24, 2013, Plaintiff SHELLY SABAN was vacationing at Koloa Landing, Poipu, Kauai, and rented a room at the Wyndham Grand Resort, touted as a world-class luxury beach resort. Plaintiff SHELLEY SABAN was

injured when the hardwood board that framed the top of her hotel closet fell from the wall, without warning, and struck her on top of the head as she was bent over in the closet picking up her shoes. The room had recently been renovated by Defendant LAYTON, and the top board of the closet door frame had been glued to the wall, but not nailed or permanently affixed into place. The board measured approximately, six and a half feet long, four inches wide, and one inch thick.

9. Defendant LAYTON negligently failed to properly construct the closet frame and negligently failed to properly affix the trim piece to the wall. Defendants AZUL, POIPU BEACH, and/or ASSOCIATION were innkeepers and had a duty to reasonably inspect and maintain the premises and Plaintiff's room, which was under their ownership, dominion and/or control and negligently failed to make the premises safe for Plaintiff's use. Defendants LAYTON, AZUL, POIPU BEACH, and/or ASSOCIATION negligently created an unreasonably dangerous condition on the premises, and/or negligently failed to detect and repair said unreasonably dangerous condition, and/or failed to warn Plaintiff of such condition.

10. As a legal and proximate result of the conduct of Defendants, Plaintiff SHELLEY SABAN sustained multiple serious injuries including but not limited to a severe concussion and traumatic brain injury and is therefore entitled to compensation for past and future medical expenses, lost wages, other out of pocket expenses, pain and suffering, severe emotional distress and mental anguish, the loss

of future enjoyment of life and other special and general damages allowed by law.

WHEREFORE, Plaintiff prays for relief against Defendants, jointly and severally, as follows:

- a. Special and general damages in amounts to be proven at trial;
- b. Prejudgment and post-judgment interest;
- c. Costs and attorneys' fees incurred in this litigation; and
- d. Such further and additional relief deemed just and appropriate

under the circumstances.

DATED: Honolulu, Hawaii, August 3, 2015.

/s/ RANDALL L.K.M. ROSENBERG

RANDALL L.K.M. ROSENBERG

CHARLES E. McKAY

MOANA A. YOST

Attorneys for Plaintiff

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LLC dba KOLOA LANDING AT)	
POIPU BEACH WYNDHAM GRAND)	
RESORT; POIPU BEACH VILLAS,)	
LLC; ASSOCIATION OF KOLOA)	
LANDING AT POIPU BEACH; and)	
LAYTON CONSTRUCTION CO., INC.)	
dba LAYTON CONSTRUCTION)	
COMPANY;)	
)	
Defendants.)	
_____)	

DEMAND FOR JURY TRIAL

Plaintiff SHELLY SABAN, by and through her attorneys, ROSENBERG & McKAY, hereby demand a jury trial on all issues presented by the Complaint so triable.

DATED: Honolulu, Hawaii, August 3, 2015.

/s/ RANDALL L.K.M. ROSENBERG
RANDALL L.K.M. ROSENBERG
CHARLES E. McKAY
MOANA A. YOST

Attorneys for Plaintiff

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LAYTON CONSTRUCTION CO., INC.)	
dba LAYTON CONSTRUCTION)	
COMPANY;)	
)	
Defendants.)	
_____)	

SUMMONS

TO ALL THE DEFENDANTS:

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose

name and address are:

ROSENERG & McKAY
733 Bishop Street
Suite 2070, Makai Tower
Honolulu, Hawaii 96813

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk